

REMARKS

This application has been carefully reviewed in view of the above-referenced Office Action, and reconsideration is requested in view of the following remarks.

Regarding the Rejections under 35 U.S.C. §102

In order to establish a *prima facie* case of unpatentability under 35 U.S.C. §102, MPEP 2131 requires:

TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)."

In the present case, the above requirements have not been met for at least the following reasons:

Specifically regarding claim 1, this claim calls for "storing an indication of whether the physical channel is PSIP compliant channel". The Patent Office asserts that this feature is met by the disclosure at Col. 2, Lines 49-54, with Fig. 4, and Col. 4, lines 40-44, and further explains "note the reading of a Virtual Channel Table from a physical channel is an indication of PSIP compliance). However, it is believed clear that Applicant's "storing" operation is intended to mean that a separate indication of PSIP compliance is stored. The stored indication is disclosed by way of example in the specification to mean storing the attribute as illustrated in Table 2 to associate the attribute with a each physical channel to indicate whether it is PSIP compliant. The McDermott reference clearly fails to show the invention in as complete detail as claimed and further fails to disclose the claim elements as arranged in the claim.

However, in order to more clearly distinguish over the Patent Office's broad reading of the claim language, Applicants have amended all of the independent claims to specify that an attribute is stored in a table to indicate whether the physical channel is PSIP compliant.

Application No.: 10/618,916

**RECEIVED
CENTRAL FAX CENTER****DEC 11 2007**

The disclosure of McDermott does not appear to recognize the possibility of non-PSIP digital television transmission, and hence there is a presumption that all digital transmissions of interest are PSIP compliant. Thus, there is no teaching or suggestion of use of a table of attributes to designate physical channels as being PSIP compliant or not. This issue is simply not broached, and the claim feature is missing. Applicants' claims address this issue and is neither taught, suggested nor implied by the cited McDermott reference. In view of the clarifying amendments, all claims are believed to be in clear condition for allowance. McDermott does not store an attribute designating PSIP compliance in a table as called for in the claims. Reconsideration and allowance are respectfully requested at an early date.

Concluding Remarks

The undersigned additionally notes that other distinctions exist between the cited art and the claims. However, in view of the clear distinctions pointed out above, further discussion is believed to be unnecessary at this time. Failure to address each point raised in the Office Action should accordingly not be viewed as accession to the Examiner's position or an admission of any sort.

No amendment made herein was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim unless an argument has been made herein that such amendment has been made to distinguish over a particular reference or combination of references.

Application No.: 10/618,916

-6-

DEC 11 2007

Interview Request

In view of this communication, all claims are now believed to be in condition for allowance and such is respectfully requested at an early date. If further matters remain to be resolved, the undersigned respectfully requests the courtesy of an interview. The undersigned can be reached at the telephone number below.

Respectfully submitted,

/Jerry A. Miller 30779/

Jerry A. Miller
Registration No. 30,779

Dated: 12/11/2007

Please Send Correspondence to:
Jerry A. Miller
Miller Patent Services
2500 Dockery Lane
Raleigh, NC 27606
Phone: (919) 816-9981
Fax: (919) 816-9982
Customer Number 24337

Application No.: 10/618,916

-7-